

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1422V

MARSHA WOOD,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 12, 2025

Jason Barton Eshelman, Eshelman Legal Group, Cuyahoga Fall, OH, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On October 3, 2022, Marsha Wood filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). Petitioner alleged that she suffered a left shoulder injury, as a result of an influenza vaccination received on November 6, 2020. Petition, ECF No. 1. On May 24, 2024, I issued a decision awarding compensation to Petitioner based on the parties' stipulation. ECF No. 31.

¹Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$9,586.43 (representing \$8,492.50 in fees plus \$1,093.93 in costs). Application for Attorneys' Fees and Costs ("Motion") filed October 31, 2024, ECF No. 35. Furthermore, Petitioner filed a signed statement representing that Petitioner incurred no personal out-of-pocket expenses. ECF No. 35-3.

Respondent reacted to the motion on November 12, 2024, reporting that he is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case and that he does not oppose Petitioner's request in this case. ECF No. 36. Petitioner did not file a reply thereafter.

I have reviewed the billing records submitted with Petitioner's request. Petitioner is requesting that I endorse the hourly rate of \$300 for time billed by her attorney Jason Eshelman, in the 2021-24 timeframe. Mr. Eshelman has been a licensed attorney since 2005. ECF No. 35 at 1. In my experience, the request appears reasonable overall, and I find no cause to reduce the requested hours or rates. Respondent offered no specific objection to the rates or amounts sought.

I have also reviewed the requested costs, but find that Petitioner's counsel has not substantiated them with the required supporting documentation, such as an invoice or proof of payment. See ECF No. 35 at 8. I will nevertheless reimburse these costs in full, since the amount requested is not particularly large. But Petitioner's counsel should be aware that any future requests for costs may result in a curtailed (or denied) award for failure to include the required supporting documentation. See Guidelines for Practice Under the National Vaccine Injury Compensation Program at 75-78 (emphasis added).³

CONCLUSION

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT Petitioner's Motion for attorney's fees and costs. **I award a total of \$9,586.43 (representing \$8,492.50 in fees plus \$1,093.93 in costs) to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement.**

³ The guidelines for Practice Under the National Vaccine Injury Compensation Program can be found at: https://www.uscfc.uscourts.gov/sites/default/files/vaccine_guidelines_20240318.pdf

In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

⁴ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.